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CHAIR



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MARYLAND HEALTH CARE COMMISSION

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MARYLAND HEALTH CARE COMMISSION

Thursday, April 16, 2009
Minutes

Chair Moon called the public meeting to order at 1:05 p.m.

Commissioners present: Conway, Falcone, Fleig, Kan, Krumm, Lyles, McLean, Moore, Ontaneda-Bernales, Petty, Todd, and Worthington. Commissioner Olsen participated via teleconference.

Before turning to the Commission's formal agenda, Chair Moon welcomed three new members of the Commission. She said Governor O'Malley appointed John Fleig, Kenny Kan, and Robert Lyles to serve on the Maryland Health Care Commission. Chair Moon asked the Commissioners to introduce themselves. She also noted that Commissioner Moore has been reappointed to a second term on the Commission.

ITEM 1.

Approval of the Minutes

Commissioner Conway made a motion to approve the minutes of the March 19, 2009 meeting of the Commission, which was seconded by Commissioner Petty, and unanimously approved.

ITEM 2.

Update of Activities

David Sharp, Director, Center for Health Information Technology, announced that the Request for Applications (RFA) to build a statewide health information exchange was posted on the Commission's website and on eMaryland Market Place. The RFA will identify a multi-stakeholder group to lead the development of a statewide health information exchange that is financially sustainable and organizationally sound. He also said HB 706, Electronic Health Records – Regulation and Reimbursement passed through the House and Senate.

ITEM 3.

ACTION: COMAR 10.24.17 – State Health Plan for Cardiac Surgery and Percutaneous Coronary Intervention (PCI) Services – Update of Door-To-Balloon Time Requirement – Action on Proposed Permanent Regulations

Dolores Sands, Health Policy Analyst, presented for consideration as proposed regulations, a change to COMAR 10.24.17 to bring the regulation into compliance with the current guidelines of the American College of Cardiology and the American Heart Association. The recommended change would require, effective January 1, 2010, that hospitals with a Commission waiver to provide primary primary percutaneous coronary intervention (pPCI) without on-site cardiac surgery services, meet a 90-minute door-to-balloon time for 75% of patients. Ms. Sands said the Joint Commission and the federal Centers for Medicare and Medicaid Services use a door-to-balloon time of 90 minutes to report publicly on the performance of hospitals in providing primary percutaneous coronary intervention to adults with ST-elevation myocardial infarction. She noted that the Commission released draft regulations for informal public comment and that, while eight of the nine comments supported the proposed changes, three principal issues were raised: (1) the effective date of the new requirement; (2) the applicability of the door-to-balloon time requirement for pPCI patients at all hospital, including those with cardiac surgery; and (3) the need to consider a different standard for rural areas of Maryland. Staff recommended that the Commission adopt the amendment to COMAR 10.24.17, with the change to delay implementation of the door-to-balloon time requirement of 90 minutes or less for 75% of patients to January 1, 2010, as a proposed permanent regulation. Commission Todd made a motion to promulgate changes to COMAR 10.24.17 as a proposed permanent regulation, which was seconded by Commissioner Krumm, and unanimously approved.

ACTION: COMAR 10.24.17 – State Health Plan for Cardiac Surgery and Percutaneous Coronary Intervention (PCI) Services – Update of Door-To-Balloon Time Requirement - ADOPTED as Proposed Permanent Regulations.

ITEM 4.

ACTION: Certificate of Need (CON)

- **Solomons Nursing Home (Docket No. 08-04-2283)**

Solomons Nursing Home applied for a Certificate of Need to add 17 comprehensive care facilities beds, with a total estimated project cost of \$1,878,549. Susan Myers, Health Policy Analyst, presented the staff recommendation on the application. Staff recommended that the Commission award a Certificate of Need with the following condition: that prior to first use review, Solomons Nursing Center shall provide to the Commission an updated Memorandum of Understanding with the Maryland Medical Assistance Program agreeing to maintain the proportion of Medicaid patient days required by Nursing Home Standard COMAR 10.24.08.05(2). Commissioner Krumm made a motion to approve the staff recommendation, which was seconded by Commissioner Ontaneda-Bernales and unanimously approved.

ACTION: Certificate of Need for Solomons Nursing Home (Docket No. 08-04-2283) is hereby APPROVED.

- **Lorien LifeCenter – Harford County (Docket No. 08-12-2288)**

Lorien LifeCenter-Harford County, applied for a Certificate of Need to construct a new 78-bed comprehensive care facility located in Harford County. Ms. Myers presented the staff recommendation on the application. She said the proposed facility will have 43,152 square feet of space, 26 private rooms, and 26 semi-private rooms. She also noted that an assisted living component may be developed at the site at a later time. The total estimated cost of the project is \$9,315,563. Ms. Myers said there were no interested parties for this project. Staff recommended that the Commission award a Certificate of Need for this project, as outlined in the Staff Report and Recommendation. Commissioner Moore made a motion to approve the staff recommendation, which was seconded by Commissioner Todd and unanimously approved. Commissioner Ontaneda-Bernales recused herself from consideration of this matter.

ACTION: Certificate of Need for Lorien LifeCenter – Harford County (Docket No. 08-12-2288) is hereby APPROVED.

ITEM 5.

LEGISLATIVE WRAP-UP

Nicole Stallings, Chief, Government Relations and Special Projects, presented a final status report on the 2009 Legislative Session. Ms. Stallings said the following legislation was enacted:

- SB 637/HB 674 – Small Group Market Regulation – Modifications – This legislation removes the floor for the value of the standard plan; changes rating bands from +40/-50% to +50/-50% effective July 1, 2010; allows rating on entry for health status for new groups entering the small group market effective July 1, 2010; allows pre-existing condition exclusion for 12 months based on a 6 month look-back period effective October 1, 2009; requires the Commission to make public premium information on its website by October 1, 2009; and requires the Commission to study the issue of negative riders and options to implement value-based health benefit design.
- SB 638/HB 610 – Bona Fide Wellness Programs – Incentives – Aligns Maryland law regarding the offer of incentives for achieving a particular health outcome with those allowed under HIPAA; and allows the Maryland Insurance Commissioner to request a review of a bona fide wellness program and require the carrier to pay for the review.
- HB 706 – Electronic Health Records – Regulation and Reimbursement – This legislation requires the MHCC and the Health Services Cost Review Commission to: designate a State health information exchange; adopt regulations requiring “State-regulated payors” to provide incentives to providers to promote the adoption and meaningful use of electronic health records; and designate one or more management services organizations to offer electronic health record services by various dates. In addition, the bill allows the imposition of disincentives by way of reduced reimbursement for any provider that seeks payment from a State-regulated payor and is not using electronic health records that are certified and capable of connecting to and exchanging data with the State Health Information Exchange, by January 1, 2015, or the date established for the imposition of penalties under the federal American Recovery and Reinvestment Act of 2009.
- HB 735 – State Personnel – At-Will Employment – Reforms and Reports – This legislation repeals provisions of law that designate certain positions and employees as being in the executive

service, management service, or as special appointments in the State Personnel Management System.

Ms. Stallings highlighted the following bills which were introduced but **not** enacted during the 2009 legislative session:

- SB 71 – Maryland Health Care Commission – Certificate of Need – Requirements – If passed, this Departmental legislation would have aligned closure requirements for a health care facility to those of a hospital.
- SB 799/HB871 – Health Care Facilities – Certificate of Need – Hospitals – If passed, this legislation would have required the MHCC to docket and conduct a comparative review of applications for development and establishment of a new general hospital in a jurisdiction under certain circumstances.
- HB 4 – Small Business Health Insurance Expansion Act – If passed, this legislation would have expanded the maximum firm size eligibility criteria in the Health Insurance Partnership from 9 to 19 and clarified employee participation rules.

Ms. Stalling discussed the following legislation that requires the Commission to participate in a study:

- SB 79 – Health Insurance Reform – This legislation is the Maryland Insurance Administration’s (MIA) Departmental bill and was amended to replace provisions increasing medical loss ratio with a requirement that the MIA, in consultation with the MHCC and appropriate stakeholders, study the impact of raising the medical loss ratio in various insurance markets.
- SB 627 – Loan Assistance Repayment and Practice Assistance – This legislation includes language requiring the MHCC and the Department of Business and Economic Development (DBED) to report on the feasibility of expanding the eligibility criteria of State development programs and the feasibility of making economic development funding available to physician practices evolving to a medical home.

ITEM 6.

PRESENTATION: Issue Brief from the National Business Group on Health – Eliminating Racial and Ethnic Disparities; A Business Case Update for Employers

Bruce Kozlowski, Director, Center for Health Care Financing and Policy, provided a presentation from the National Business Group on Health titled “Eliminating Racial and Ethnic Health Disparities; A Business Case Update for Employers.” Mr. Kozlowski said the National Business Group on Health, in partnership with the Office of Minority Health of the U.S. Department of Health and Human Services, formed a Racial/Ethnic Health Disparities Advisory Board and that Maryland is the only State represented on the Board. He discussed the goals of the Issue Brief, as well as examples of disparities. Mr. Kozlowski also discussed patient-level, health care system-level, and care process-level variables. He discussed the disparities in the most common health conditions, as well as employer efforts to reduce health disparities. Mr. Kozlowski concluded that health disparities affect all employers, and that, therefore, employers could improve the value of the services their employees receive, if they addressed disparities.

ITEM 14.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:25 p.m., upon motion of Commissioner Krumm, which was seconded by Commissioner Falcone and unanimously approved.